

REMARKS

This application has been reviewed in light of the Office Action dated May 17, 2005. Claims 1-59, 61, and 63-71 are presented for examination, of which added Claims 1, 3, 5, 33, 58, 61, 63, 66, 69, 70, and 71 are in independent form and have been amended as discussed below. In addition, Claim 39 has been amended to correct an apparent typographical error. Claims 72-75 have been added to provide Applicant with a more complete scope of protection. Favorable reconsideration is requested.

Claims 1-9, 11, 13, 14, 16-23, 25, 27-37, 39, 40, 42-53, 55-57 and 63-71 were rejected under 35 U.S.C. § 103(a) as being obvious from U.S. Patent No. 6,151,600 ("Dedrick"). Claims 10, 12, 15, 24, 26, 38, 41 and 54 were rejected as obvious over Dedrick in view of U.S. Patent No. 5,953,710 ("Fleming"), and Claims 58, 59 and 61 were rejected as obvious over Dedrick in view of U.S. Patent No. 6,282,653 ("Berstis").¹

Applicant would like to thank the Examiner for conducting a further, telephonic interview with the undersigned representative on May 26, 2005. As indicated in the Interview Summary mailed May 27, 2005, agreement was reached on further amendments that the Examiner stated would distinguish the claims from Dedrick.² In accordance with the agreement, the claims have been amended herein along the lines agreed to in the interview to emphasize that user pre-authorizations (e.g., settings, parameters, preferences) of payments are not used to perform a search for content to be

¹ The Office Action also rejected Claims 60 and 62 over the latter two references, but these rejections are moot due to the cancellation of these claims in an earlier Amendment.

² A previous interview was conducted on January 31, 2005, and the claims were subsequently amended based on the results explained in the Interview Summary dated January 31, 2005. However, the Examiner apparently changed his position following that interview and has maintained the rejections based on Dedrick in the present Office Action.

retrieved. By contrast, Dedrick describes maintaining a “personal profile database” (see col. 5, lines 44-54), which is used to “customize received electronic content” (see col. 6, lines 47-50) or as the basis for a search performed by an “appraisal agent” (see col. 7, line 60 – col. 8, line 52). In other words, as stated in the Interview Summary, “Dedrick uses user-defined parameters to search for content.”³

Because Applicant has amended the claims along the lines of that discussed with and agreed upon by the Examiner, and because the Examiner has acknowledged that such amendments would overcome the rejections based on Dedrick, Applicant respectfully requests that all of the rejections based on Dedrick be withdrawn.⁴

Claim 33 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant respectfully traverses this rejection for the following reasons.

Claim 33 recites a client information appliance that receives user-defined settings specified by the user regarding acceptance of fees. The client information appliance retrieves content in response to selection by the user. The user-defined settings are not used to perform a search for the content.

Claim 33 further recites that the client information appliance determines whether retrieved content requires payment of a fee and if so, determines whether the content has been pre-approved by the user-defined settings, and if the content has been pre-approved it is accepted without further authorization by the user.

³ Applicant does not agree that Dedrick describes or suggests “user-defined parameters” that correspond to those claimed in the present application.

⁴ Applicant notes that certain features in Claims 1, 3, 5, 70, and 71, which are not believed to affect patentability of these claims with respect to Dedrick, have been deleted.

The Examiner appears to suggest a discrepancy between pre-approval through user-defined settings and a selection made independently of the user-defined settings. However, the present invention generally involves: (1) establishing settings for data retrieval (e.g., whether the fee for such data is below a certain threshold); (2) selecting desired content without using the settings to perform a search (e.g., selecting a desired article from a website); and (3) retrieving the selected content if it is in consonance with the settings (e.g., the fee for the article is less than the threshold), without further approval by the user. These steps, which have been repeatedly discussed in the various interviews and Amendments in this case, are not in conflict. Moreover, Claim 33 has been amended to delete the phrase “the content is selected independently of the user-defined settings.”

Applicant therefore respectfully submits that one of ordinary skill in the art would readily understand the metes and bounds of Claim 33, particularly when it is “analyzed, not in a vacuum, but in light of: (A) [t]he content of the particular application disclosure; (B) [t]he teachings of the prior art; and (C) [t]he claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.” MPEP § 2173.02. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

As discussed above, it was agreed during the interview that Dedrick does not teach or suggest the features now recited in the amended independent claims. Accordingly, those claims are believed to be clearly patentable over Dedrick. A review of the other art of record, including Fleming and Berstis, has failed to reveal anything which, in Applicant’s opinion, would remedy the deficiencies of Dedrick as a reference against the

independent claims herein. All of the independent claims are therefore believed to be patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



Carl B. Wischhusen
Attorney for Applicant
Registration No. 43,279
(212) 218-2582

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_Main 519154_1